

REMARKS

This reply is in response to the Office Action mailed June 15, 2006. Claims 1-46 are pending in the application and claims 1-19 and 42-44 stand rejected. Claims 20-41, 45 and 46 have been withdrawn from consideration. Applicant has added new claims 47-94. Those new claims further limit the substitution of the catecholate ligand. Support for such claims can be found at least at paragraph [0039] of US 2006/0047094 A1 and page 180, line 27. Entry of the foregoing amendment and reconsideration of the claims is respectfully requested.

Claim 19 stands rejected under 35 U.S.C. § 112, second paragraph. Applicant has amended the claim as suggested by the Examiner. Particularly, Applicant has amended the claim to recite "compound" and not "composition." Such amendment corrects a matter of form, and is not intended to narrow the claim or otherwise limit the scope of equivalents thereof. Withdrawal of the rejection is respectfully requested.

Claims 1-19 and 42-44 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-82 of copending USSN 10/448,837 (published as Zhao et al., U.S. Publication No. 2004/0044150A1; hereafter "Zhao").

Regarding the double patenting rejections, Applicants respectfully submit that, due to the still-changeable nature of the claims, these rejections should be held in abeyance, e.g., until such point as the pending claims are allowable but for such double patenting rejections. At that juncture, Applicants will, if necessary, submit the appropriate terminal disclaimer(s) to obviate any then-pending double patenting rejections. Applicants respectfully submit that these rejections are not ripe for resolution until there are otherwise allowable claims in the instant case and allowed or issued claims in the cases to which terminal disclaimers are sought. Indeed, Applicants respectfully note that the M.P.E.P. instructs the Examiner to withdraw a provisional double patenting rejection in the earlier filed of two pending applications and to allow that earlier filed application to issue as a patent without a terminal disclaimer. See M.P.E.P 804(I)(B)(1). Furthermore, Applicant submits that the claims of Zhao are patentably distinct from the instant

claims for many reasons, including that in Zhao, M is limited to Ni or Pd, whereas in the instant claims, M is not so limited. Further, the phenyl rings in Zhao must have hydrogen at the two ortho positions where such is not required in the instant claims.

Claims 1-19 and 42-44 stand rejected under 35 U.S.C. § 102(a) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Llatas et al. (U.S. Patent No. 6,410,768; hereafter “Llatas”). Applicant respectfully traverses the rejection on grounds that Llatas is not prior art to the claimed invention as established by the attached affidavit of prior invention in accordance with 37 CFR § 1.131. Withdrawal of the rejection and allowance of the claims is respectfully requested.

Moreover, rejoinder of withdrawn claims 20-41, 45 and 46 is respectfully requested. Llatas is not prior art and there is no prior art of record that teaches the common features of the claims. Accordingly, the restricted groups have unity of invention and restriction is not proper. Withdrawal of the restriction and consideration of claims 20-41, 45 and 46 is respectfully requested.

New claims 47-94 are also in condition for allowance. No reference of record teaches, shows, or suggests the claimed subject matter. Allowance of claims 47-94 is respectfully requested.

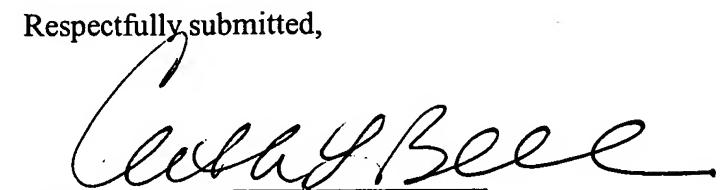
The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to the Applicant’s disclosure than the primary references cited in the Office Action. Therefore, Applicant believes that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

Having addressed all issues set out in the office action, Applicant respectfully submits that the pending claims are now in condition for allowance. Applicant invites the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been addressed to the Examiner’s satisfaction.

The Commissioner is hereby authorized to charge Deposit Account No. 05-1712, for any fees, including extension of time fees and excess claim fees, required to make this response timely and acceptable to the Office.

9-18-06  
Date

Respectfully submitted,

  
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